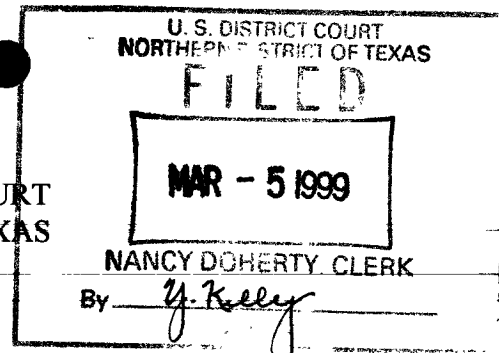


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS



Special Order No. 2-48

1. The District Judges of this Court have considered and adopted the attached amendments to the local civil rules, local criminal rules, and local bankruptcy rules of this Court. These amendments amend local civil rules 15.1 and 83.9(b), and local criminal rule 57.9(b); adopt new local civil rules 7.1(i), 7.2(e), and 55.3, and local bankruptcy rules 8006.1, 8006.2, 8006.3, 8006.4, 8006.5, 8006.6, 8009.1, 8010.1, 8010.2, 8010.3, and 8010.4; and repeal local bankruptcy rule 8007.1.
2. Unless modified after receipt of public comment, these rules shall take effect on September 1, 1999 and shall apply to all proceedings in civil and criminal actions, and bankruptcy appeals, thereafter commenced and, insofar as just and practicable, all proceedings in civil and criminal actions, and bankruptcy appeals, then pending.
3. Any persons who desire to comment on any of these rules may do so by submitting written comments to:

Clerk of Court
United States District Court for the Northern District of Texas
Attention: 1999 Rules Revision Comments
1100 Commerce Street, Room 14A20
Dallas, Texas 75242-1495


The deadline by which the Clerk must receive comments is June 1, 1999.

4. The Clerk of Court is directed to make the necessary distribution.

SO ORDERED.

March 5, 1999.

FOR THE COURT:



JERRY BUCHMEYER, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

Note: Amendments to existing rules are shown by ~~redlining~~ new material and ~~striking out~~ old material. Entirely new rules are designated “[NEW RULE]” and are set out in regular type.

LOCAL CIVIL RULES

LR 7.1 Motion Practice.

* * *

(i) Requirement of Appendix; Appendix Requirements. [NEW RULE]

- (1) A party who relies on documentary (including an affidavit, declaration, deposition, answer to interrogatory, or admission) or non-documentary evidence to support or oppose a motion must include such evidence in an appendix.
- (2) The appendix must be assembled as a self-contained document, separate from the motion and brief.
- (3) Each page of the appendix must measure 8½ x 11 inches. Non-documentary exhibits (*e.g.*, videotapes and other physical exhibits) and oversized exhibits (*e.g.*, maps and schematic drawings) that are included in the appendix must be placed in an envelope that measures 8½ x 11 inches.
- (4) Each page of the appendix must be numbered legibly in the lower, right-hand corner. The first page must be numbered as “1,” and succeeding pages must be numbered sequentially through the last page of the entire appendix (*i.e.*, the numbering system must not re-start with each succeeding document in the appendix). An envelope that contains a non-documentary or oversized exhibit must be numbered as if it were a single page.

LR 7.2 Briefs.

* * *

[NEW RULE]

(e) **Citations to Appendix.** If a party's motion or response is accompanied by an appendix, the party's brief must include citations to each page of the appendix that supports each assertion that the party makes concerning any documentary or non-documentary evidence on which the party relies to support or oppose the motion.

* * *

LR 15.1 Motions to Amend.

A party who moves motion for leave to file an amended pleading must be accompanied by attach a copy of the proposed amended pleading as an exhibit to the motion. The party must also submit with the motion an original and a second copy of the proposed pleading. The original and second copy must neither be physically attached to the motion nor made exhibits to the motion. The original of the proposed pleading must contain the original signature of the signing attorney.

LR 55.3 Request for Entry of Default by Clerk. [NEW RULE]

Before the clerk is required to enter a default, the party requesting such entry must file with the clerk a written request for entry of default, submit a proposed form of entry of default, and file any other materials required by Fed. R. Civ. P. 55(a).

LR 83.9 Attorneys Not Admitted to Practice Before this Court.

* * *

(b) **Application to Appear.** Unless exempted by LR 83.11, an attorney who is not admitted to practice in this court, who desires to appear as counsel in a case, and who is eligible pursuant to subsection (a) of this rule to appear, shall apply for admission *pro hac vice* on a court-approved form and pay the applicable fee to the clerk. ~~The attorney shall affirm that the attorney has read *Dondi Properties Corp. v. Commerce Savs. & Loan Ass'n*, 121 F.R.D. 284 (N.D. Tex. 1988) (en banc), and the local civil rules of this court, and that the attorney will comply with the standards of practice adopted in *Dondi*, and with the local civil rules.~~

LOCAL CRIMINAL RULES

LCrR 57.9 Attorneys Not Admitted to Practice Before this Court.

* * *

(b) Application to Appear. Unless exempted by LCrR 57.11, an attorney who is not admitted to practice in this court, who desires to represent a party in a proceeding, and who is eligible pursuant to subsection (a) of this rule to appear, shall apply for admission *pro hac vice* on a court-approved form and pay the applicable fee to the clerk. ~~The attorney shall affirm in writing that the attorney has read and will comply with the local criminal rules of this court.~~

LOCAL BANKRUPTCY RULES

LBR 8006.1 Duty of Bankruptcy Clerk to Include Copies of Items in the Record; Preparation and Transmittal of Duplicate Volume of these Copies. [NEW RULE]

(a) The clerk of the bankruptcy court shall include in the record on appeal, in this order, copies of (1) the notice of appeal, (2) the judgment, order, or decree appealed from, (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court, and (4) the docket sheet. The copies shall be assembled as a separate volume of the record. After the pages in this volume are numbered in the manner prescribed by LBR 8006.4, the clerk shall prepare a duplicate copy of this volume. The duplicate copy shall be transmitted with the record on appeal to the clerk of the district court.

(b) The district clerk shall transmit to the district judge to whom the appeal is assigned the duplicate copy required by subpart (a) of this rule. This copy shall not be part of the record on appeal that is released pursuant to LBR 8006.6.

LBR 8006.2 Duty of Parties to Provide Copies of Items for Inclusion in the Record. [NEW RULE]

(a) A party who, pursuant to Fed. R. Bankr. P. 8006, has designated items for inclusion in the record on appeal shall provide copies of the designated items to the clerk of the bankruptcy court within 20 days of filing the designation. A party who has designated a transcript of any proceeding or part thereof shall provide the clerk a copy of the transcript within 5 days of the date the reporter files the transcript in accordance with Fed. R. Bankr. P. 8007(a). A bankruptcy judge or, by delegation from that judge, the clerk of the bankruptcy court, may for good cause grant reasonable extensions of the deadlines prescribed by this rule.

(b) The copies must be organized according to the sequence in which they are designated, two-hole punched at the top, and secured in a durable binder. If the copies are too voluminous to be included in a single volume, they must be divided into two or more volumes. Each volume must be secured in the required manner and contain a designation on its cover that identifies it by its case caption and bankruptcy court case and/or adversary proceeding number, and by volume number.

(c) Each page of each volume must measure 8½ x 11 inches. Non-documentary exhibits (*e.g.*, videotapes and other physical exhibits) and oversized exhibits (*e.g.*, maps and schematic drawings) that are included must be placed in an envelope that measures 8½ x 11 inches.

LBR 8006.3 Duty of Bankruptcy Clerk When Party Fails to Provide Copies of Designated Items; Prepayment Requirement. [NEW RULE]

(a) If a party who has designated items for inclusion in the record on appeal fails to provide copies of the items designated to the clerk of the bankruptcy court within the time prescribed by LBR 8006.2(a), the clerk shall, subject to subpart (b) of this rule, prepare the party's part of the record in accordance with Fed. R. Bankr. P. 8006 and LBR 8006.2.

(b) The party must prepay the clerk's costs of preparing the party's part of the record, according to the fees prescribed by law. If the party fails to make the required prepayment within 10 days of receipt of notice of the required amount, the bankruptcy clerk is excused from the obligations imposed by Fed. R. Bankr. P. 8006 and subpart (a) of this rule. When the record is transmitted to the district clerk, the clerk of the bankruptcy court shall note the party's failure to make the required payment as the reason for not including the party's designations in the record on appeal.

LBR 8006.4 Duty of Bankruptcy Clerk to Number the Record. [NEW RULE]

The clerk of the bankruptcy court shall consecutively number each page of the record on appeal. The volume that contains the items required by LBR 8006.1 shall be designated as the first volume. The first page of the first volume shall be numbered as "1," and succeeding pages shall be numbered sequentially through the last page of the entire record (*i.e.*, the numbering system must not re-start with each succeeding document or volume of the record). Index pages required by LBR 8006.5 shall not be numbered. An envelope that contains a non-documentary or oversized exhibit shall be numbered as if it were a single page.

LBR 8006.5 Duty of Bankruptcy Clerk to Index the Record. [NEW RULE]

When the clerk of the bankruptcy court transmits the record on appeal to the district clerk, the bankruptcy clerk shall include as the first documents in the first volume of the record—

(a) an index, on a form prepared by the clerk, that notes the page numbers in the record where copies of (1) the notice of appeal, (2) the judgment, order, or decree appealed from, (3) any opinion, findings of fact, and conclusions of law of the bankruptcy court, and (4) the docket sheet can be found; and

(b) an index, on copies of each party's designation of items for inclusion in the record, that notes the page numbers in the record where the parties' designated items can be found.

LBR 8006.6 Release, Circulation, and Return of Record on Appeal. [NEW RULE]

(a) After the clerk of the district court enters the appeal on the docket, the clerk shall release the record on appeal to the attorney for the appellant at the appellant's request, upon execution of a receipt in a form approved by the clerk. If there are more than one appellant and the appellants are represented by separate attorneys, they must designate one attorney to take custody of the record.

(b) On the date the brief of the appellant is filed with the clerk of the district court, the attorney who took custody of the record must deliver the record to the attorney for the appellee. If there are more than one appellee and the appellees are represented by separate attorneys, they must designate one attorney to take custody of the record. The record must be transmitted by a method calculated to effect delivery within 2 business days. The attorney for the appellant shall promptly deliver to the clerk, on an approved form, proof that the record has been sent to the attorney for the appellee. The appellant shall bear the initial cost of delivering the record to the appellee, subject to recovery of this expense as a taxable cost pursuant to Fed. R. Bankr. P. 8014.

(c) If the appellant does not request release of the record on appeal, the appellee may do so after the appellant's brief is filed. The clerk of the district court shall release the record on appeal upon execution of a receipt in a form approved by the clerk. If there are more than one appellee and the appellees are represented by separate attorneys, they must designate one attorney to take custody of the record.

(d) When the attorney for the appellee receives a record delivered by the attorney for the appellant, the attorney for the appellee shall promptly deliver to the clerk, on an approved form, proof that the record has been received.

(e) In any case in which the attorney for the appellee has obtained custody of the record, the attorney shall, on the date the brief of the appellee is filed with the clerk of the district court, return the record to the clerk. The record must be transmitted by a method calculated to effect delivery within 2 business days. The attorney for the appellee shall promptly deliver to the clerk, on an approved form, proof that the record has been sent to the clerk. The clerk shall acknowledge receipt of the record on an approved form. The appellee shall bear the initial cost of returning the record to the clerk, subject to recovery of this expense as a taxable cost pursuant to Fed. R. Bankr. P. 8014.

(f) If a party seeks the release of the record on appeal in a manner not otherwise prescribed by this rule, the party must move for such relief from the district judge to whom the appeal is assigned.

~~LBR 8007.1 Transmission of Appeal Not Affected by Inaction of Parties.~~

~~The failure of a party to an appeal to designate the record on appeal or to arrange for the production of a transcript designated for inclusion in the record on appeal will not stay transmission of the record of the appeal to the district clerk. When transmitting the record to the district clerk, the bankruptcy clerk will note an appellant's failure so to act.~~

LBR 8009.1 Deadlines for Filing Briefs. [NEW RULE]

(a) The appellant shall serve and file a brief within 20 days after entry of the appeal on the docket pursuant to Fed. R. Bankr. P. 8007.

(b) The appellee shall serve and file a brief within 20 days after service of the brief of the appellant.

(c) The appellant may serve and file a reply brief within 15 days after service of the brief of the appellee, and if the appellee has cross-appealed, the appellee may file and serve a reply brief to the response of the appellant to the issues presented in the cross-appeal within 15 days after service of the reply brief of the appellant.

LBR 8010.1 Certificate of Interested Persons. [NEW RULE]

On the first page of the brief of the appellant and the brief of the appellee, before the table of contents, the appellant and the appellee shall, under the heading "Certificate of Interested Persons," certify a complete list of all persons, associations of persons, firms, partnerships, corporations, guarantors, insurers, affiliates, parent corporations, or other legal entities who or which are financially interested in the outcome of the appeal. If a large group of persons or firms can be specified by a generic description, individual listing is not necessary. Each such certificate shall also list the names of opposing law firms and/or counsel in the case.

LBR 8010.2 Citations to the Record. [NEW RULE]

The requirement of Fed. R. Bankr. P. 8010(a)(1)(E) and 8010(a)(2) that the argument contain citations to the parts of the record relied on must be satisfied by citing the record page number assigned by the bankruptcy clerk pursuant to LBR 8006.4 (*e.g.*, R. 105). The brief must not cite a transcript or document only by its own page (*e.g.*, Hearing Tr. 10 or Contract p. 7), but may contain such a citation if the specific record page is cited first (*e.g.*, R. 105, Hearing Tr. 10).

LBR 8010.3 Length of Briefs [NEW RULE]

Unless the district judge to whom the appeal is assigned otherwise directs, Fed. R. Bankr. P. 8010(c), rather than LR 7.2(c), governs the limits on the lengths of briefs.

LBR 8010.4 Citation of Supplemental Authorities. [NEW RULE]

The procedure prescribed by Fed. R. App. P. 28(j) shall govern citation of supplemental authorities.